

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROGER EUGENE FAIN,
Plaintiff,

v.

BOBBY LUMPKIN, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, *et al.,*
Defendants.

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§
§
§
§
§
§

Civil Action No. 5:20-CV-01149

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT LIMITED TO THE
DEFENSE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

Exhibit 1

AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF WALKER §


BEFORE ME, the undersigned authority, on this day personally appeared Jessica Riley, who, being by me duly sworn, deposed as follows:

My name is Jessica Riley and I am an employee of the Texas Department of Criminal Justice (TDCJ), a governmental agency. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of records for the Inmate Grievance Department, a part of the TDCJ located in Huntsville, Texas. Attached are true and correct copies of *the grievance records for Inmate Fain, Roger E., TDCJ #700474, CN#5.20-CV-001149, for the time period of 1/1/2016 to 12/12/2020*, which are kept by the TDCJ in the regular course of its business activity. The entries of such records were made as a regularly conducted activity and a regular practice of the TDCJ, and were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.

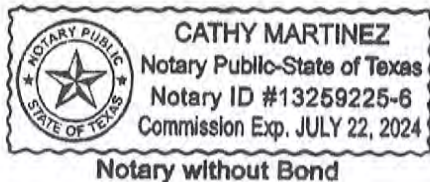
I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."



Jessica Riley
Manager II
Offender Grievance, ARRM
Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 14th day of DECEMBER, 2020.





NOTARY PUBLIC, STATE OF TEXAS

Cathy Martinez
Notary's Printed Name

My Commission Expires:
July 22, 2024

Texas Department of Criminal Justice



STEP 1

OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2018183011
 Date Received: 8-17-18
 Date Due: 9-26-18
 Grievance Code: 500
 Investigator ID #: 2432 / 956
 Extension Date: _____
 Date Ret'd to Offender: 09-28-18

Offender Name: Roger Fain TDCJ # 00700474
 Unit: McConnell Housing Assignment: 19 Y-007
 Unit where incident occurred: McConnell Food Service

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Several I-60's to Capt. Salazar When? August 2018

What was their response? That salt wasn't available at this time

What action was taken? Nothing

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. This Step-I pertains to the fact that the Food Service Department is denying the Offender Population salt, whereas the ODR has salt & pepper available to the Officers to season their foods. Salt hasn't been available to the Offender population for the past several weeks. The salt I'm told is only available in the Officer's dining area, thus denying the Offender population access to salt to season our food, but most importantly salt is necessary to the Offender population to replace the body's salt that is lost during the day due to sweating. If salt isn't replace, this places the individual in dire straits for heat stroke and other heat related illnesses, and possible death. Salt that is used to preserve foods isn't adequate to properly replace the salt that is lost during sweating. TDCJ-CID requires able body Offenders to work, and during working the body sweats out salt. Then there are those that don't work but due to the heat in the buildings, and lack of A/C sweating is a common practice, thus the loss of bodily salt happens.

If the Offender population is denied the ability to replace the lost salt, then health issues arise, and that becomes an issue for TDCJ-CID & UTMB-CHMC.

Action Requested to resolve your Complaint.

The Food Service Department needs to give the Offender population access to salt. The Offender population has more need of salt than the Officers who are eating the Offender's food rations.

Offender Signature: Roger Fair

Date: August 16th 2018

Grievance Response:

Your complaint has been reviewed. Investigation revealed that the Food Service Department contends at the time of your grievance there was a shortage of salt; however as of 8/27/18 salt was received and was sent out. No further action is warranted by this office.

Signature Authority: R. Miller

Warden G. Miller

Date: SEP 26 2018

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

Exhibit 1

004

GRIEVANCE INVESTIGATION WORKSHEET

500--0926

Official Statement

Unit: ML Staff Name: Food Service Grievance #: 2018183011 Date: 08/17/18
 Offender Name: FAIN, ROGER TDCJ#: 700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- | | |
|--|---|
| <input type="checkbox"/> Participant(s) Statement | <input type="checkbox"/> Other |
| <input type="checkbox"/> Witness(es) Statement (signed) | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms |
| <input type="checkbox"/> Shift Roster | <input type="checkbox"/> Property Logs |
| <input type="checkbox"/> Ingress/Egress Log | |
| <input type="checkbox"/> Property Confiscation Form | |

ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

When we have items that is provided that we are to have available for the offender population. We do provide however we have not had any salt to provide for over a month. 8/28/18 is when we finally received salt on our order. it was put out some.

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 1950 Date Initiated: 08/17/18 Date Completed: 09/26/18 Date Due: 09/26/18
 Offender Name: FAIN, ROGER TDCJ No: 700474 Grievance Number: 2018183011

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
500	YES ()	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

Give the offender population access to salt.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:


Statement - Food Service

Suggested Response to Offender:

Your complaint has been reviewed. Investigation revealed that the Food Service Department contends at the time of your grievance there was a shortage of salt; however as of 8/27/18 salt was received and was sent out. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: J. GarciaSignature: Title: Investigator IIIDate: 09/26/18

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

006



STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2021 010196
Date Received: SEP 24 2020
Date Due: 11-03-2020
Grievance Code: 102
Investigator ID #: IL978
Extension Date: 12-13-2020
Date Retd to Offender: NOV 05 2020

Offender Name: ROGER FAIN TDCJ # 700474
Unit: J.B. CONNALLY Housing Assignment: 19Y-087
Unit where incident occurred: CONNALLY

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? CHAPLAIN, I-60 When? 09-22-2020
What was their response? I WAS NOT APPROVED TO GROW MY HAIR
What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

ON SEPT. 10TH 2020, I WAS REASSIGNED TO THIS UNIT BASED ON MY RELIGION, NATIVE AMERICAN. OVER THE PAST SEVERAL DAYS, I HAVE BEEN CONFRONTED BY OFF SITE OFFICERS WORKING OVERTIME CONCERNING MY HAIR. I EXPLAINED THAT I AM A NATIVE AMERICAN, AND A FEDERAL COURT, SOUTHERN DISTRICT OF TEXAS, RESOLVED THE ISSUE. I WAS TOLD THIS WASN'T TRUE, AND I WROTE THE CHAPLAIN. HE STATED THAT THE NATIVE AMERICAN LAW SUIT "WAS NOT" A CLASS ACTION LAW SUIT, AND EVEN THO I AM RECOGNIZED AND DESIGNATED NATIVE AMERICAN BY STATE CLASSIFICATION COMMITTEE AND TDCJ-CID, I STILL CANNOT PRACTICE MY RELIGIOUS BELIEFS TOTALLY BECAUSE I STILL HAD TO ABIDE BY TDCJ-CID GROOMING STANDARDS. I NOW MUST BEGIN FROM THE GRIEVANCE PROCEDURE FORWARD TO TAKE THIS MATTER INTO FEDERAL COURT IRONICALLY THE SOUTHERN DISTRICT, THAT GRANTED RELIEF IN THE ORIGINAL CASE IN JANUARY OF 2019.

MY ISSUES WILL BE A VIOLATION OF THE 1ST AMENDMENT TO THE US CONSTITUTION, FREEDOM OF RELIGION; VIOLATION OF THE 14TH AMENDMENT TO THE US CONSTITUTION, EQUAL PROTECTION OF THE LAW, I.E. TDCJ-CID CANNOT TREAT ONE OFFENDER DIFFERENTLY WHEN THEY ARE SIMILARLY SITUATED, EVEN THE RUIZ OPINION STATES THIS, ALSO IN THE MUSLIM RELIGIOUS BOARD CASE A FEW YEARS AGO.

IT MAKES NO SENSE TO FORCE ME TO SHAVE
 THEIR HAIR FOR RELIGIOUS REASONS, AND DENYING HUNDREDS
 OF OTHERS OF THE SAME RELIGION. ALL I AM ASKING IS TO
 BE ALLOWED TO PRACTICE MY RELIGION, RELIGIOUS FREEDOM,
 IN ITS ENTIRETY.

IF THIS MATTER IS LEFT UNRESOLVED, I'M SURE THAT
 THE FEDERAL COURT WILL ALLOW THE NEXT PROCEEDINGS
 TO BECOME CLASS ACTIONS FOR ALL TDCS-CID OFFENDERS
 SIMILAR TO WHAT HAPPENED WITH THE BOARDS.

Action Requested to resolve your Complaint:

I WOULD LIKE TO BE ALLOWED TO GROW MY HAIR IN ACCOR-
 DANCE WITH MY RELIGION, WITHOUT HARASSMENT, THREATS & RETRICTION.

Offender Signature:

Kyle Fair

Date: 09-23-2020

Grievance Response:

Your request has been forwarded to Huntsville for processing. There is no further action warranted by this office.

Assistant Warden J. Cirone

Signature Authority:

Date: 11/5/2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language *
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible *
- ☐ 11. Inappropriate *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 2nd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____

Exhibit 1

008.ppend

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

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**RESTRICTED
AND
CONFIDENTIAL**

Exhibit 1

009

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1

STEP 2

Unit: CY Investigator ID: 1978 Date Initiated: 09/24/20 Date Completed: 11/04/20 Date Due: 12/13/20
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2021010196

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
102	YES ()	Disciplinary	()	Religion	(X)	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported (U) the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Level Sheet completed

Summary of Issue: (Include date, time and location):

09-10-2020 he was assigned to this unit due to his native American religion and over the past several days has been confronted by several officers about his hair. Has explained that he is native American and federal court resolved the issue. Wrote the Chaplain and he stated that the native American law suit was not a class action lawsuit and even though he is recognized and designated as native American by SCC and TDCJ he still cannot practice his religious beliefs because he still has to abide by TDCJ grooming standards. His issues will be a violation of the 1st amendment freedom of religion.

Requested Remedy:

to be allowed to grow his hair in accordance with his religion without harassment and threats and retaliation

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

*Chaplain states the offender submitted a HQ-150 request to grow long hair. The request has been forward to Huntsville and is being processed.

*extension form

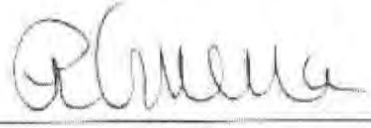
Suggested Response to Offender:

Your request has been forwarded to Huntsville for processing. There is no further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2 01

Investigating official completes the section below:

Printed Name: R. Guerra

Signature: 

Title: Investigator II

Date: 11/04/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

010

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1

STEP 2

Unit: CY Investigator ID: 1978 Date Initiated: 09/24/20 Date Completed: _____ Date Due: 11/03/20Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2021010196

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
102	YES ()	Disciplinary	()	Religion	(X)	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

09-10-2020 he was assigned to this unit due to his native American religion and over the past several days has been confronted by several officers about his hair. Has explained that he is native American and federal court resolved the issue. Wrote the Chaplain and he stated that the native American law suit was not a class action lawsuit and even though he is recognized and designated as native American by SCC and TDCJ he still cannot practice his religious beliefs because he still has to abide by TDCJ grooming standards. His issues will be a violation of the 1st amendment freedom of religion.

Requested Remedy:

to be allowed to grow his hair in accordance with his religion without harassment and threats and retaliation

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

*Chaplain

Suggested Response to Offender:

OUTCOME CODE: _____ RESOLUTION CODE: _____

Investigating official completes the section below:

Printed Name: R. Guerra Signature: _____Title: Investigator II Date: _____

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

011

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2021010196	Fain, Roger	700474	CY



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

R. Guerra
R. Guerra/Investigator II

Name and Title

11-03-2020

Date

Original – Send to the Offender

Copy – Attach to the Grievance

**Texas Department of Criminal Justice
Institutional Division**

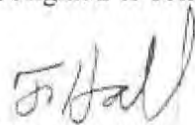
Inter-Office Communications

To: Whom It May Concern **Date:** 11/03/2020
From: Chaplain Hall **Subject:** Grievance #2021010196

RE: Offender Fain, Roger #700474

On 10/01/2020 the offender submitted a HQ-150 request to grow long hair due to his religious beliefs. This request was forwarded to Huntsville and is now being processed.

Until such time that the Religious Practices Committee makes a final decision, the offender is obligated to follow grooming standards according to existing policy.


Chaplain Hall
11/03/2020

Texas Department of Criminal Justice

STEP 1 OFFENDER
GRIEVANCE FORM

Offender Name: LEGER FAIN TDCJ # 00700474
 Unit: STILES Housing Assignment: 4D3 60B
 Unit where incident occurred: STILES UNIT

OFFICE USE ONLY

Grievance #: 2020013075
 Date Received: SEP 27 2019
 Date Due: 11-06-19
 Grievance Code: 200
 Investigator ID #: 2109 F2534
 Extension Date: _____
 Date Retd to Offender: PAR 27 2019

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? SEVERAL I-603 TO CLASSIFICATION When? DURING SEPT. 19

What was their response? IGNORED, NO REPLY

What action was taken? NONE, OFFICIALS REFUSED TO ADDRESS NUMEROUS I-603

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

IT IS MY BELIEF, AND UNDERSTANDING OF TDCJ-CID REGULATIONS AND POLICY CONCERNING HOUSING ASSIGNMENT, AND WHO CAN BE HOUSED TOGETHER, THAT I AM INAPPROPRIATELY HOUSED WITH A CELIE WHO DOES NOT MET THE PROPER CRITERIA OF AGE DIFFERENCE, WEIGHT DIFFERENCE THAT TDCJ-CID HAS SET FORTH.
FURTHERMORE, IT IS MY BELIEF THAT I AM HOUSED BASED ON CONVENIENCE OF THE UNITS CLASSIFICATION AND COUNT ROOM, NOT BASED ON PROPER TDCJ-CID POLICY WHOSE THERE IS TO BE A WEIGHT DIFFERENCE OF ABOUT 20 POUNDS, AND AGE DIFFERENCE OF ABOUT 15 YEARS OF AGE.

BASED ON THESE FACTS, THE AGE DIFFERENCE BETWEEN MY CELIE AND I IS 40 YEARS, WEIGHT DIFFERENCE OF ABOUT 35 TO 40 POUNDS.

I HAVE WRITTEN THE COUNTREROOM AND CLASSIFICATION NUMEROUS TIMES CONCERNING LIVING IN THE OUTSIDE BORMS. I WAS ASSIGNED TO 19 BUILDING Y-BRM ON THE WM.G. MCCONNELL UNIT ON FEB. 19 APRIL 2014, LIVED IN THE SAME CUBICLE UNTIL I WAS BENCH WARRANTED BACK TO TARRANT COUNTY ON MARCH 19TH 2019, 5 YEARS I WAS ALLOWED TO BE HOUSED ON 19 BUILDING. PRIOR TO THAT, I HAVE LIVED IN BORMS ON EASTHAM AND ELLIS UNITS SINCE OCTOBER OF 1998.

ON INTAKE UCC- THE REVIEWING MAJOR HAD NO PROBLEM WITH ME GOING TO THE OUTSIDE BORMS, SINCE I HAVE 25 YEARS FLAT

COMPLETED ON MY SENTENCE.
 THE ONE AND ONLY REPLY I'VE RECEIVED FROM THE COURT ROOM,
 UNSIGNED, WAS TO TELL ME I WAS NOT DORM ELIGIBLE.
 THE MATTER PRESENTED HAS NEVER AROSE BEFORE DUE TO MY
 LIVING IN A DORM ENVIRONMENT. THIS MATTER CAN BE RESOLVED
 IF I AM ALLOWED TO LIVE IN 12 OR 19 DORM, IN A COUBICLE.
 I WOULD LIKE TO MAKE THIS CLEAR, I AM NOT HAVING ANY PROBLEM
 WITH MY CELLIE, ALL I'M STATING IS I'M IN APPROPRIATELY HOUSED AND
 I'VE LIVED IN A OPEN DORM ENVIRONMENT FOR THE PAST 21 YEARS.

Action Requested to resolve your Complaint.

WOULD LIKE TO BE ALLOWED TO LIVE IN THE DORMS, THIS WOULD
 RESOLVE THIS MATTER.

Offender Signature:

Robert Train #700474

Date: 09-26-2019

Grievance Response:

Your grievance was investigated. You are appropriately housed according to your restrictions and custody classification. You do not meet the eligibility requirements for dorm housing at the Stiles Unit, and it is noted you are not assigned a cellmate. No further action is warranted.

Kevin Smith

Signature Authority:

K. J.

Date: 3-25-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.
 State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

OFFICE USE ONLY

Initial Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 2nd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

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**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY				STEP 1 X	
				STEP 2	
Unit: <u>ST</u>	Investigator ID: <u>12619</u>	Date Initiated: <u>9/27/19</u>	Date Completed: <u>3/26/20</u>	Date Due: <u>11/6/19</u>	
Offender Name: <u>Fain Roger</u>		TDCJ No: <u>700474</u>	Grievance Number: <u>2020013075</u>		
Issue Code:	EMERGENCY	ADA ()	Property ()	Use of Force (UOF) ()	
200	YES ()	Disciplinary ()	Religion ()	Harassment or Retaliation* ()	
	NO (X)	Medical ()	OP1 Investigation ()	PREA ()	
*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Rights					
Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.					
Summary of Issue: (Include date, time and location): Claims he is inappropriately housed with another offender that does not meet proper criteria of age difference and weight difference. Claims he was housed on a dorm on McConnell, Eastham and Ellis and upon Intake UCC the Major had no problem with him going to the outside dorm. Classification only answered an I-60 stating he was not eligible, but did not tell him why.					
Requested Remedy: Investigate					

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

1. Extension
2. Case Manager II T. Brazil - offender not eligible for dorm due to offense (Capital Murder) housing assignment screening criteria in place by unit administration. Offender is not assigned a cellmate at this time.
2. Classification Procedure Manual 4.0 Housing Assignment
3. HSIN screen, assignment history screen

Suggested Response to Offender:

Your grievance was investigated. You are appropriately housed according to your restrictions and custody classification. You do not meet the eligibility requirements for dorm housing at the Stiles Unit and it is noted you are not assigned a cellmate. No further action is warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. Ponder

Signature: 

Title: INV III

Date: 3/26/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ST Staff Name: T Brazile Classification: Classification Grievance #: 2020013075 Date: 9/27/19
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4-D 60 b

In accordance with HP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- | | |
|--|---|
| <input type="checkbox"/> Participant(s) Statement | |
| <input type="checkbox"/> Witness (es) Statement (signed) | |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other |
| <input type="checkbox"/> Shift Roster | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log | <input type="checkbox"/> Property Inventory Forms |
| <input type="checkbox"/> Property Confiscation Form | <input type="checkbox"/> Property Logs |

ALLEGATIONS:

Claims he is inappropriately housed with another offender that does not meet proper criteria of age difference and weight difference. Claims he was housed on a dorm on McConnell, Eastham and Ellis and upon intake UCC the Major had no problem with him going to the outside dorm. Classification only answered an I-60 stating he was not eligible. Wants to be moved to dorm. CLASSIFICATION WHY IS OFFENDER NOT ELIGIBLE FOR DORM? IS THERE AN AGE/WEIGHT CRITERIA FOR CELLMATES?

EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Offender Fain, Roger, 700474 is not eligible
for the dorms due to his offense of Capital Murder.
Also there is an age/weight criteria for cellmates

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

CSHS1802 T.D.C.J. - INSTITUTIONAL DIVISION DATE: 03/12/20
HEALTH SUMMARY FOR CLASSIFICATION SYSTEM TIME: 03:30:38
INQUIRY
TDCJ-ID #: 00700474 SID #: 04497012
NAME: FAIN, ROGER
HT 6'00" WT 222
DOB: XXXXXXXXXX
UNIT: ST HOUSING: 4D32-60B
JOB: UTILITY GEN SQ 1ST A SIDE

F	U	L	E	E	S
3	3	1	1	2	1
C	C	A	A	B	A
P	P			P	

RESTRICTIONS HEAT SENSITIVITY SCORE: I
UNIT: NO RESTRICTION EXTENDED MED HRS: TRUSTY CAMP SUITABLE:
HOUSING: NO RESTRICTION WHEELCHAIR USE: NO RESTRICTI
BUNK: LOWER ONLY ROW: NO RESTRICTIONS
WORK: W09 W14 W16
DISCIPLINARY PROCESS: NO RESTRICTION

INDIVIDUALIZED TREATMENT PLAN:

TRANSPORTATION RESTRICTIONS: NO RESTRICTION
REVISED BY: UTMBFTP REVISED DATE: 01 06 2020
PF1 -HELP PF3 -MENU PF4 -ADDITIONAL INFO PF7 -UP PF8 -DOWN
ENTER NEXT REQUEST:/IDCNO: _____ OR SIDNO: _____

CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW CURRENT DATE: 03/12
INMTCICS/MP01664 HOUSING/JOB ASSIGNMENT HISTORY AND TIME: 08:39
7200/UC15 INMATE NAME: FAIN, ROGER TDCNO: 00700474

HOUSING				INM/HSG		JOB ASGN		JOB	
DATE	UNIT	ASGNMNT	CUST	AUTH	DATE	ASSIGNMENT	AUT		
HOUSING COMMENT					JOB COMMENT				
08/30/19	ST	4D32	60 B G2	GA JW	08/30/19	UTILITY GEN SQ 1ST A SID JW			
JW/MLG					JW/MLG				
08/30/19	ST	UNASGN	G2	TR	08/28/19	TRANSIENT CUSTODY OVERFL	UC		
08/28/19	ST	11TRA	35 B G2	TR UCC	UCC/RDO				
UCC/RDO					08/21/19	UNASGN PENDING SCC DOCKE	PA		
08/28/19	DU	UNASGN	G2	TR	08/12/19	TRANSIENT PEND DIAG PROC	RP		
08/12/19	DU	C10	03 B G2	TR RRW	INTAKE				
08/12/19	NE	UNASGN	G2	TR	08/07/19	TRANSIENT NON-ROUTINE TR	SE		
08/07/19	NE	GTR	17 B G2	TR SB	12/04/18	I/S MED SQ 01		KS	
03/19/19	ML	UNASGN	G2	G2	05/30/18	I/S MED SQ 03		RS	
04/17/14	ML	19Y	007 G2	G2 MEA	11/18/14	QUALITY ASSURANCE TECH 1	GM		
DORM ELIG					02/24/14	GARMENT INSPECTOR 1ST		CC	

MORE HOUSING/JOB'S AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO _____
AND/OR SIDNC _____

F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-ME

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020013075	Fain, Roger	700474	ST



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

S. THOMAS, UGI III

Name and Title

11/9/19

Date

Original – Send to the Offender

Copy – Attach to the Grievance

CSUCR01/CSUC01. XXX UNIT CLASSIFICATION REVIEW DATE OF REVIEW: 03 24 20
INMTCICS/MPO1664 CUSTODY ASSIGNMENT WORKSHEET CST/REVIEW CDE: G2 / /
7290/UC01 SUBSEQ REVIEW DTE/CDE: /
INMATE NAME: FAIN, ROGER RACE/SEX: W/M HSG AT REVIEW: ST 4D32 60
TDCNO: 00700474 STAT: S3 1

INIT CLASSIFICATION DISCP HISTORY: 3MTH/6MTH/1YR/2YR/3YR* ADD'L INFORMATION

*VIOLENT CRIME * LVL 1 OR 2 . . 00 00 00 00 00 *DETAINER. . . . 1.
* AGAINST PERSON Y * STAFF ASLTS . 00 00 00 00 00 *HOMOSEXUAL. . . . 1.
***** INMATE ASLTS. 00 00 00 00 00 *SEX ASLT VICTIM .
PREV 2-YR ASLT HIST ASLTS W/WP-SM 00 00 00 00 00 *POTENTIAL VICTIM. ?
***** INCIDENTS: MA 00 00 00 00 00 *
* STAFF/INM* MM 00 00 00 00 00 *PAROLE CALC CODE. ?
* TDC N N * MI 00 00 00 00 00 *RISK
* JAIL. . . . N N * ESCAPE. . . . 00 00 00 00 00 *PREC:
* HOSPITAL. . N N * LVL 3. . . . 00 00 00 00 00 *TTL 00000 07/29/95
* JUVENILE. . N N * *P/V N
* OTH PRISONS N N * ASLT HIST (MAJORS ONLY): 1-YR: N *
* * 2-YR: N *
RECOMMENDATIONS: GP LEVEL 2 / DORM
ENTER THE NEXT TRANS CODE 01 AND/OR TDCNO _____
AND/OR SIDNO _____
PF1-HELP, PF3-PREV, PF4-CURR, PF10-GC ONLY

Texas Department of Criminal Justice



STEP 1

OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: _____

Date Received: _____

Date Due: _____

Grievance Code: _____

Investigator ID #: _____

Extension Date: _____

Date Retd to Offender: _____

Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4 F 2 - 40BUnit where incident occurred: Stiles

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Grievance Process April 28th 2020 When? _____What was their response? Wardens Response was "Your Claims Noted. No Evidence Found..." JUN 26 2020What action was taken? None. Warden Kevin Smith stated "No Further Action Warranted By This Office."

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. The Grievance Process, I-127 is the avenue of an Offender against a Agency Employee. This avenue is also required to pursue a 42 USC §1983 into the Federal Courts. Pursuant to PATTERSON v. STANLEY, 547 Fed.Appx. 510(Fifth Circuit Court of Appeals 2013), states: "The primary purpose of a grievance is to 'alert' prison officials to a problem, not to provide personal notice for a particular official that may be sued." JUN 26 2020

April 28th 2020, I brought to the attention of the Administration a problem concerning the DFH the lack of it being denied to those of us that are on it. On June 20th 2020, Warden Kevin Smith signed off on the Grievance, #2020112559, stating that the Food Service department was aware of my DFH, and he further stated that I was being afforded a DFH meal daily in accordance with the food service policy. Here Warden Smith either knowingly, or unknowingly signed off on a document that was "Fraudulent" thus is in violation of TDCJ-CID PD-22, Rule 10, Falsification of Records. Furthermore, Warden Smith is in violation of the 8th Amendment to the United States Constitution for "Cruel & Unusual Punishment," i.e. deliberate Administrative Indifference to a serious medical need, I am on this Unit for medical reasons, yet the Medical Department has taken my heat restrictions, and now the Food Service Department is denying me my DFH meals during this lockdown. Because Warden Smith "rubber stamped" the Grievance Investigator's answer, he has failed to do his job, thus has violated PD-22 Rule #7, Substandard Duty Performance. Furthermore, by failing to properly investigate, and intervene, he is also in violation of Texas Penal Codes §39.02(a)(1) and §39.03(a)(1)(2). These allegations can be substantiated by the actual kitchen daily meal out put or by the record that I have from April 15th 2020 til present concerning what was given to me and other DFH people, and it sure isn't what is required by the UTMB-CMHC Therapeutic Dietary Policy & Procedure Manual that is available to population thru the Law Library. This Manual is what the Food Service Department/Manager is supposed to follow, yet has totally ignored because

those on the Unit who are to oversee these matters has chosen to ignore the matter, it is very apparent that the TDCJ-CID Motto, which is on State Agency issued hats, "We Take Care Of Our Own" thus meaning that no matter if an Employee is right or wrong, the Offender is never right. By granting relief to an Offender's Grievance means that they are taking care of the Offender, not their own. Also by denying me and others our Medically prescribed DFH, Food Service and this Administration is putting the Offender's in a position to become seriously ill, and possibly leading to our deaths. I have brought this matter to the attention of the Administration thru the Grievance and I-60's to Food Service, Grievance on June 2nd, 2020, #2020112559, stating it as an Emergency, it was returned as being "Redundant" #9. The matter hasn't been addressed properly, nor am I satisfied with what is happening, I DO NOT WISH TO HAVE HEALTH ISSUES OR DEATH!!

Action Requested to resolve your Complaint.

By the very fact of the indifference to my medical needs this Administration has put me and other in harm's way, and without intervention, the lack of proper DFH meals can and will cause problems

Offender Signature: Kaplan 700474 Date: June 24th 2020

Grievance Response:

Signature Authority: _____ Date: _____
If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☒ 9. Redundant. Refer to grievance # 2020141143
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: B. Thomas / [Signature]

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY	
Initial Submission	UGI Initials: <u>ST</u>
Grievance #: <u>2020141143</u>	
Screening Criteria Used: <u>09 #599</u>	
Date Recd from Offender: <u>06-26-20</u>	
Date Returned to Offender: <u>06-26-20</u>	
2 nd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3 rd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

Texas Department of Criminal Justice



STEP 1 OFFENDER GRIEVANCE FORM

EMERGENCY FOR HEALTH REASONS

Offender Name: ROGER PAW TDCJ # 700474
 Unit: STILES Housing Assignment: 4F 2-40B
 Unit where incident occurred: STILES

OFFICE USE ONLY

Grievance #: _____
 Date Received: _____
 Date Due: _____
 Grievance Code: _____
 Investigator ID #: _____
 Extension Date: _____
 Date Reid to Offender: _____

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? NUMEROUS I-60's, I-127 TO RIF-CMT. When? APRIL - JUNE

What was their response? IGNORED, NO RESPONSE

What action was taken? HOLD

state your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I AM ON THE DIET FOR HEALTH FOR MEDICAL REASONS, THIS DIET IS PRESCRIBED BY UTMBS-CMHC PROVIDOR, AND BY THE CHIEF DIETITION, ASHOK R. KUCHUKUKKA. I AM UTILIZING THE FY 19 DFH MENU PROVIDED BY THE LAW LIBRARY, CMHC-THERAPEUTIC DIETARY POLICY & PROCEDURES MANUAL DATED SEPTEMBER 2018.

THE KITCHEN MANAGER CAPTAIN'S OBSERVANCE OF POLICY IS SOLELY LACKING. WE KNOW THAT OBSERVANCE OF POLICY IS NOT ALWAYS CONVENIENT, BUT SHE OPERATES HOW KITCHEN TO HER CONVENIENCE. SHE SERVES/PREPARES MEALS THAT ARE NOT A PART OF THE CMHC-THERAPEUTIC DIETARY POLICY SET FORTH IN THE HEALTH SERVICES DEPARTMENT'S GUIDELINES. IT IS CONVENIENT FOR THE KITCHEN TO FEED "EVERYONE" THE SAME MEAL, THAN TO FOLLOW DFH POLICY.

THIS GRIEVANCE IS FILED OUT OF NEED FOR HEALTHIER SACK MEALS, BY HER NOT FOLLOWING POLICY, SHE IS INDIFFERENT TO MY HEALTH ISSUES, SHE IS KNOWINGLY, INTENTIONALLY, INDIFFERENT TO UTMBS-CMHC PROVIDOR'S DIETARY ORDERS, AS TO WHAT I AM TO BE FED, THUS OVER RIDING THE MEDICAL PROVIDOR DUE TO THE FACT THAT TO FOLLOW THE APPROVED DFH IS TO MUCH OF AN INCONVENIENCE, INSTEAD OF FOLLOWING DFH POLICY SHE FEEDS WHAT EVER IS ON THE REGULAR LINE FOR THE GENERAL POPULATION. THIS UNIT IS DESIGNATED

AS A MEDICAL FACILITY, THAT INCLUDES THE DCT.
THUS SHE IS VIOLATING THE 1ST AMENDMENT TO THE U.S.
CONSTITUTION, THE 14TH AMENDMENT TO THE U.S. CONSTITUTION
AS WELL AS VIOLATING THE RUIZ SETTLEMENT. THE GRIE
VANCE PROCEDURE IS NECESSARY TO PURSUE THIS MATTER IF
THIS MATTER CANNOT OR WILL NOT BE RESOLVED, MEANING
THAT THE KITCHEN FOLLOW THE CMHC DIETARY GUIDELINES.

JUN 04 2020

Action Requested to resolve your Complaint:

WOULD LIKE TO RECEIVING THE PROPER DFT. SICK NOTES DURING
A LOCKDOWN, AND DURING REGULAR DAILY CHW HALL NOTES.

Offender Signature: _____

Date: JUNE 2ND 2020

Grievance Response: _____

Signature Authority: _____

Date: _____

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.
State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☒ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted *
- ☐ 4. Inappropriate Excessive attachments *
- ☐ 5. No documented attempt at informal resolution *
- ☐ 6. No requested relief is stated *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely
Affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: <u>YR</u>
Date Recd from Offender:	<u>2020/3/26/1</u>
Screening Criteria Used:	<u>02/599</u>
Date Recd from Offender:	<u>JUN 04 2020</u>
Date Returned to Offender:	<u>JUN 04 2020</u>
2 nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

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Texas Department of Criminal Justice

OFFENDER
STEP 1 GRIEVANCE FORM

EMERGENCY FOR HEALTH REASONS

Offender Name: ROGER PAW ID #: 700474Unit: STILES Housing Assignment: 4F 2-40BUnit where incident occurred: STILES

OFFICE USE ONLY

Grievance #: _____

Date Received: _____

Date Due: _____

Grievance Code: _____

Investigator ID #: _____

Extension Date: _____

Date Reid to Offender: _____

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? NUMEROUS I-60's, I-127 TO RIF-CMT. When? APRIL - JUNE

What was their response? IGNORED, NO RESPONSE

What action was taken? HAND

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I AM ON THE DIET FOR HEALTH FOR MEDICAL REASONS, THIS DIET IS PRESCRIBED BY UTMB-CMHC PROVIDOR, AND BY THE CHIEF DIETITION, ASHOK R. KURUKULLA. I AM UTILIZING THE FY 19 DFH MENU PROVIDED BY THE LAW LIBRARY, CMHC-THERAPEUTIC DIETARY POLICY & PROCEDURES MANUAL DATED SEPTEMBER 2018.

THE KITCHEN MANAGER/CAPTAIN'S OBSERVANCE OF POLICY IS SOLELY LACKING. WE KNOW THAT OBSERVANCE OF POLICY IS NOT ALWAYS CONVENIENT, BUT SHE OPERATES HOW KITCHEN TO HOW CONVENIENCE. SHE SERVES/PREPARES MEALS THAT ARE NOT A PART OF THE CMHC-THERAPEUTIC DIETARY POLICY SET FORTH IN THE HEALTH SERVICES DEPARTMENT'S GUIDELINES. IT IS CONVENIENT FOR THE KITCHEN TO FEED "EVERYONE" THE SAME MEAL, THAN TO FOLLOW DFH POLICY.

THIS GRIEVANCE IS FILED OUT OF NEED FOR HEALTHIER SACK MEALS, BY HOW NOT FOLLOWING POLICY, SHE IS INDIFFERENT TO MY HEALTH ISSUES, SHE IS KNOWINGLY, INTENTIONALLY, INDIFFERENT TO UTMB-CMHC PROVIDOR'S DIETARY SACKS, AS TO WHAT I AM TO BE FED, THUS OVER RIDING THE MEDICAL PROVIDOR DUE TO THE FACT THAT TO FOLLOW THE APPROVED DFH IS TO MUCH OF AN INCONVENIENCE, INSTEAD OF FOLLOWING DFH POLICY SHE FEEDS WHAT EVER IS ON THE REGULAR LINE FOR THE GENERAL POPULATION. THIS UNIT IS DESIGNATE

AS A MEDICAL FACILITY, THAT INCLUDES THE DET.
 THUS SHE IS VIOLATING THE 8TH AMENDMENT TO THE U.S.
 CONSTITUTION, THE 14TH AMENDMENT TO THE U.S. CONSTITUTION
 AS WELL AS VIOLATING THE RUIZ SETTLEMENT. THE GRIE
 VANCE PROCEDURE IS NECESSARY TO PURSUE THIS MATTER IF
 THIS MATTER CANNOT OR WILL NOT BE RESOLVED, MEANING
 THAT THE KITCHEN FOLLOW THE CMHC DIETARY GUIDELINES.

JUN 04 2020

Action Requested to resolve your Complaint:

WOULD LIKE TO RECEIVING THE PROPER DEPT. SICK NOTES DURING
 A LOCKDOWN, AND DURING REGULAR DAILY CHOW HALL NOTES.

Offender Signature: _____

Date: JUNE 2ND 2020

Grievance Response: _____

Signature Authority: _____

Date: _____

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.
 State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☒ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____.
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely
 Affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission: _____ UGI Initials: YR
 Date Recd: 2020/3/26/1
 Screening Criteria Used: 02/599
 Date Recd from Offender: JUN 03 2020
 Date Returned to Offender: JUN 04 2020
 2nd Submission: _____ UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission: _____ UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____

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Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: _____

Date Received: _____

Date Due: _____

Grievance Code: _____

Investigator ID #: _____

Extension Date: _____

Date Retd to Offender: _____

Offender Name: Roger Eugene Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4D - 3 - 60BUnit where incident occurred: Stiles / Huntsville Administrative Bldg

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I was not afforded the opportunity to speak to When? anyoneWhat was their response? N/AWhat action was taken? N/A **MAR 12 2020**

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On February 09 2020, I filed a legal Complaint Application on two Nurse Practioners to the Texas Board of Nursing in Austin, Texas. These Complaint forms were provided to me by the Texas Board of Nursing to file the Complaints. **MAR 12 2020**

On March 11th 2020, I received a form letter from the TDCJ Health Services Division, Office of Professional Standards, Patient Liaison Program. I was informed by this unsigned form letter that the Patient Liaison Program no longer accepts complaints from the Offender population. The problem with this is I never sent any complaint to the Patient Liaison Program, due to the fact I'm aware that this alleged agency is an "Oxymoron" agency and has, even in its early stages never accepted complaints from the offender population. **MAR 12 2020**

My complaint is this, the Patient Liaison Program people have shortstopped my complaint, this is a legitimate complaint, the complaint was sent to me by the Texas Board of Nursing, a Anthony Diggs is the Director, this was on their Official Complaint Applications, and mailed back to Austin, TX. By the Patient Liaison Program acting as if I complained to them they have deliberately, knowingly with malious obstructed my claim to the appropriate agency over complaints of Texas Nurses.

The Patient Liaison Program group, by their actions is deliberately denying me access to the proper channels to make this claim, they are also protecting the Nurse Practioner's that I filed the Complaints on, as well as protecting UTMB-CMHC. **MAR 12 2020**

Thus the Patient Liaison Program group has left me no choice other than to pursue this matter into the Federal Court with a USC 42 Section 1983 Lawsuit for violating my 8th Amendment Right, under the United Sattes Constitution. Adminstrative, & Deliberate Medical Indifference Claim. This Step-1, I-127, is a requirement to proceed into the Federal Court, unless this matter can be properly resolved and my Complaints allowed to be processed by the Texas Board of Nursing as stated by the Complaints. **MAR 12 2020**

MAR 12 2020

MAR 12 2020

MAR 12 2020

Action Requested to resolve your Complaint.

I realize that this Grievance is outside and beyond the Units review but it is necessary to proceed into the Federal Court

Offender Signature:

Fogin Far 700474

MAR 12 2020

Date: March 11th 2020

Grievance Response:

Signature Authority:

Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-127) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☐ 2. Submission in excess of 1 every 7 days *
- ☐ 3. Originals not submitted *
- ☐ 4. Inappropriate/Excessive attachments *
- ☐ 5. No documented attempt at informal resolution *
- ☐ 6. No requested relief is stated *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language *
- ☒ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible *
- ☐ 11. Inappropriate *

UGI Printed Name/Signature:

3/11/2020 / 18/2020

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission: UGI Initials: ST

Grievance #: 20-200-1074

Screening Criteria Used: 1.8 = 18/20

Date Recd from Offender: 12-12-20

Date Returned to Offender: 12-12-20

2nd Submission: UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission: UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: 030

ACCEPT AS
ORIGINAL

Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: J.B. Connally Housing Assignment: 19 Y-087
 Unit where incident occurred: John B. Connally

OFFICE USE ONLY

Grievance #: 2021027245
 UGI Recd Date: 11-20-20
 HQ Recd Date: 11-20-20
 Date Due: 12-5-20
 Grievance Code: 930-508
 Investigator ID#: 2448
 Extension Date: NOV 20 2020

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

It fails to address the issues presented, basically the Warden's Response is a "Party Line"
of TDCJ-CID concerning Policy Directive 03.83, Grooming Standards, to the point it violates
TDCJ-CID's new, in place, COVID 19 Virus Guidelines, these Guidelines are in place to pro-
tect the Offender population, and Employees.

TDCJ-CID Policy mandates that Offenders maintain 6' spacing in the dayroom area, 3 to a bench,
2 to a table, no board games, wearing masks inside the cubicles, unless they are reclining on
their bunks. Offenders are allowed 2 to a table, every other row in the chow hall, on the Rec
yard Offenders are not allowed to use balls, weights, and have to wear masks and maintain 6'
distancing. In the Law Libray 6' spacing at the tables, a controlled amount of Offenders in
the General Library, at all times wearing masks.

Now the Administration says its ok to get a hair cut, that proper safety policies & procedures
are in place, masks worn by barbers, face shields, golves, and aprons, equipment properly san-
itized, but this is not the case on this Unit, and several Unit barbers have been allegedly
warned. Furthermore, Offenders are still being denied religious meetings in the Chapel, due
I believe because it is something for the Offender population that isn't related to any TDCJ-
CID sponsorship, like no visitation with family members, outside volunteers coming to the Unit,
or full classes for education, WSD, and College programs.

Also, nowhere in the Warden's Response was any addressing the fact that I am Native American,
and my religion is Native American, the Culture, Customs, & Heritage, and it is apart of these
things that I wish to grow my hair. I am not an isolated individual in this matter, TDCJ-CID
has already allowed several others similarly situated to grow their hair, this concerns the

Goodman v. Davis lawsuit into the Southern District Court that was ruled on on January 24th 2019.
 I-128 Front (Revised 11-2010) YOUR SIGNATURE (SIGNATURE ON BACK OF THIS FORM) 031 (ER)

This matter is presently in Huntsville for consideration. See Grievance # 2021010196, 09/22/20.
It is also in the Western District Court in San Antonio, Cause # 5:20-CV-01149.

All I am requesting is to be allowed that in which TDCJ-CID has already allowed on a limited basis, allowing me to grow my hair without harassment, hassles, or disciplinary action, TDCJ has allowed beards, and that lawsuit wasn't a class action lawsuit, neither was Goodman v. Davi

Offender Signature: Kyle Tain #700474 Date: November 19th 2020

Grievance Response:

An investigation has been completed into your complaint. Chaplaincy was contacted regarding your request to grow long hair due to your religious beliefs. This request is now being processed; however, until the Religious Practices Committee makes a final decision, you are obligated to follow grooming standards according to existing policy. All precautionary measures are taken while in the barbershop to prevent the spread of COVID-19. No further action is warranted by this office.

Signature Authority: [Signature]

Date: DEC 04 2020

Returned because: *Resubmit this form when corrections are made.

- ☒ 1. Grievable time period has expired.
- ☒ 2. Illegible/Incomprehensible.*
- ☒ 3. Originals not submitted.*
- ☒ 4. Inappropriate/Excessive attachments.*
- ☒ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☒ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY

Initial Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Exhibit 1

032

ACCEPT AS
ORIGINAL

Texas Department of Criminal Justice

STEP 1 OFFENDER
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ# 0070047A
 Unit: J.B. Connally Housing Assignment: 19 Y - 057
 Unit where incident occurred: 19 Building Entry

OFFICE USE ONLY

Grievance: 2021027245
 Date Received: NOV 02 2020
 Date Due: 11-17-2020
 Grievance Code: 930-508
 Investigator ID #: 11733
 Extension Date: _____
 Date Replied to Offender: NOV 18 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Julio Martinez When? 10/30/20

What was their response? Told me to get a haircut, and threatened disciplinary action

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. Coming back from p.m. chow, Sgt. Martinez, who was working 19 Building told me that I was to get a haircut, he asked me where I lived, what cubicle, I told, then inquired about the rule being lifted for us to wear masks, he told me that I was still having to wear a mask, but I was going to get a haircut. I stated to Sgt. Martinez that 1) I was Native American and my religion didn't permit me to cut my hair, and that I was in the process in resolving this matter with Huntsville, the Unit & Regional Chaplaincy. He told me he didn't care what religion I was I was going to get my haircut. Then 2) I reminded Sgt. Martinez that TDCJ, the Unit, and in fact the entire Country was practicing social distancing, and for me to get a haircut I would have to remove my mask, in violation of TDCJ & the Unit's IOC's that are posted, and in fact Sgt. Martinez first thing this a.m., came onto the dorm and threatened to lock the dorm down for 23 hours if he caught anyone without a face mask on.

It is my belief that Sgt. Martinez will violate my Constitutional Rights, as well as violate posted TDCJ & Unit Directives by attempting to force me to cut my hair, and when I stand up and assert my rights to receive disciplinary action.

This matter is in Huntsville, Regional Chaplaincy Office, and in the Western District Federal Court in San Antonio. I have repeatedly attempted to resolve this matter informally, and what is going on is I'm being harrassed, hassled, and threatened with retaliatory disciplinary action because I am asserting my right to practice my religion, and secondly not wishing to remove my mask to get my hair cut due to the COVID 19 Virus. I am 66 years old, and have some health issues, and all Sgt. Martinez is concerned about is attempting to enforce rules that are not enforceable due to the COVID pandemic.

Copy to the United States District Court, Western District of Texas, 655 East Cesar E. Chavez Blvd., Suite G-65, San Antonio, Texas 78206

Action Requested to resolve your Complaint.

Would like to be left alone from being harassed concerning my hair length until such time the matter is resolved in Huntsville, State Classification, and the Federal Court.

Offender Signature: [Signature]

Date: 10/30/20 Mailed 5:48PM

Grievance Response:

Your complaint has been reviewed. All offenders are required to maintain and follow tdcj grooming standards according to policy. The unit barbers are taking all precautions necessary when conducting offender haircuts. No further action is warranted from this office.

Signature Authority: [Signature]

Senior Warden Rayford Date: 11-12-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired
- ☐ 2. Submission in excess of 1 every 7 days *
- ☐ 3. Originals not submitted *
- ☐ 4. Inappropriate/Excessive attachments *
- ☐ 5. No documented attempt at informal resolution *
- ☐ 6. No requested relief is stated *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language *
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible *
- ☐ 11. Inappropriate *

UCI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

Exhibit 1

OFFICE USE ONLY	
Initial Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____
2nd Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____
3rd Submission	UCI Initials: _____
Grievance #	_____
Screening Criteria Used	_____
Date Read from Offender	_____
Date Returned to Offender	_____

034

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

RESTRICTED AND CONFIDENTIAL

CSIUCR07/CSUC07
GM00162 / 1BYF

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
UNIT CLASSIFICATION REVIEW (UCR)
CURRENT INSTITUTIONAL ADJUSTMENT RECORDS

11/25/20
11:35:11

OFFENDER NAME: FAIN, ROGER

TDCJ #: 00700474 SID #: 04497012

ACTIVE DETAINERS: 00 WARRANTS: 00 UNIT: CY

CMT: US

SEL CODE	ADJ DATE	ADJUSTMENT RECORD DETAILS
— DRBRD	11-02-2020	PERMANENT DENIAL OF RELIGIOUS BEARD ON 11/02/2020
— NADES	09-11-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
— COVIX	08-13-2020	COVID-19 POST MEDICAL RESTRICTION
— COVIX	06-03-2020	COVID-19 POST MEDICAL RESTRICTION
— NADES	05-06-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
— BWCHN	08-07-2019	BENCH WARRANT CASE HISTORY NOTIFICATION
— BWCHN	02-13-2014	N/A
— BWCHN	09-20-2013	BENCH WARRANT CASE HISTORY NOTIFICATION
— EZ	02-16-2012	ESCAPE DESIGNATOR (OVER 10 YEARS AGO)
— BWCHN	02-11-2011	N/A
— NFSUA	02-05-2008	00708840 SMITH, DANNY RENE
— NFSUA	12-11-2007	00708840 SMITH, DANNY RENE
— NFSUA	07-11-1996	00727672 JEFFERSON, MELVIN RAY
— DRUGS	04-13-1995	DRUG USE

ID STATUS: ACTIVE FOR TDCJ# 00700474

ENTER TRAN CODE	AND TDCJ#	OR SID#	PRINTER ID E MASK T
F1=HELP F4=ALIAS	F6=CODE LIST	F7=UP F9=PRINT	F10=DETAINERS F12=MENU
F3=PREV		F8=DOWN	F11=WARRANTS

CSIMF100 TEXAS DEPARTMENT OF CRIMINAL JUSTICE
IMMH OFFENDER SOCIAL SECURITY NUMBER AND RELIGIOUS PREFERENCE INQUIRY
DATE: 12/04/2020 TIME: 10:28:01

TDC NUMBER	00700474	NAME FAIN, ROGER
PRIOR NUMBER	00603982	UNIT CY ICE STATUS
SOC SEC NBR	[REDACTED]	ICE NATL
RELIG.PREF	NATIVE AMERICAN	PRIMARY LANGUAGE ENGLISH
RELIG. PREFERENCE DATE	01/16/2020 I	SID NUMBER 04497012
LEGAL C.O.R.	246 WILLIAMSON	TYC TRANSFER NO
POB COUNTY, IF TEXAS		PLACE OF BIRTH [REDACTED]
FBI NUMBER	[REDACTED]	CITIZENSHIP UNITED STATES

ENTER NEXT REQUEST / OR TDC NUM _____
OR SID NUM _____
OR SSN NUM _____

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY

STEP 1

STEP 2 X

Unit: CGO Investigator ID: I-2448 Date Initiated: 11/25/20 Date Completed: 11/25/20 Date Due: 12/05/20Inmate Name: FAIN, ROGER TDCJ No: 00700474 Grievance Number: 2021027245

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
	YES	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
930/508	NO	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Inmates are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time, and location):

Claims on 10/30/20 Sgt. Martinez told him he needed to get a haircut. He told the Sargeant that he is Native American, and his religion did not allow him to cut his hair and he was in the process of getting this resolved through the Unit Chaplaincy. He reminded the Sargeant that if he got his hair cut, he would need to remove his mask which would be a violation of TDCJ posted rules. Claims Sgt. Martinez stated he did not care about his religion and he needed to get a haircut. States he is being harassed, hassled, and threatened with retaliatory disciplinary action for practicing his religion.

Requested Remedy:

Request to be left alone from being harassed concerning his hair length until such time the matter is resolved in Huntsville, State Classification, and Federal Court.

The following is to be completed and signed by the investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact-Finding Activity:

1. Reviewed Step 1 and Step 2.
2. Statement from Major Davis. The inmate is on the approved religious bread as of 11/2/20 and is approved to be on a Native American Unit as of 5/6/20. However, inmates are required to maintain a TDCJ haircut.
3. IOC from Chaplain Hall. On 10/01/20 the inmate submitted a HQ-150 request to grow long hair due to his religious beliefs. This request was forwarded to Huntsville and is now being processed. Until such time the Religious Practices Committee makes a final decision, the inmate is obligated to follow grooming standards according to existing policy.
4. UCR07. Inmate was permanently denial of religious beard as of 11/2/20.
5. Statement from Sgt. Martinez. I ordered the Inmate Fain to get a haircut. Inmate Fain stated he is in process of a permit with Huntsville, the barber shops on CY are open and taking all precaution when cutting hair on inmates.
6. No further action warranted.

Suggested Response to Inmate:

An investigation has been completed into your complaint. Chaplaincy was contacted regarding your request to grow long hair due to your religious beliefs. This request is now being processed; however, until the Religious Practices Committee makes a final decision, you are obligated to follow grooming standards according to existing policy. All precautionary measures are taken while in the barbershop to prevent the spread of COVID-19. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.02

Investigating official completes the section below:

Printed Name: M. GoebelSignature: M. GoebelTitle: Admin. Asst. IVDate: 11/25/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other inmates, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

038



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4Bldg. F - 2-40B
 Unit where incident occurred: Stiles

OFFICE USE ONLY

Grievance #: 2001121157
 UGI Recd Date: 01-13-20
 HQ Recd Date: 6-8-20
 Date Due: 6-23
 Grievance Code: 9715025
 Investigator ID#: 11264
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

Having filed my Step-1 in good faith, the Warden's Response does not address any of the raised issues, nor does he give me any indication that this alleged "Medical Lock Down" has any end in sight.

On May 15th 2020, me as well as others on my pod were tested enmasse, along with the rest of the Unit. After almost 2 weeks, the results came back and I along with many others were negative yet on May 29th 2020, in a kneejerk reaction, one person tested positive, and he was moved to a isolation pod, and 2 section was then locked down, and because of one positive test my section was punished. This Administration & Medical Department can say that they were only thinking of the welfare of the Offenders, their safety, yet this is only lip service that would go "Off Unit" when in fact the opposite is in fact the norm "on Unit." Officers, who are in fact the carriers of the COVID 19 virus due to the fact that they live "Outside" of the Unit don't practice what the Administration is preaching, most don't wear PPE, i.e. mask, gloves, sheilding clothing, this can be, and should be verified by the use of the camera system, but this will be ignored based on the reality that it is fact.

We are punished because the Administration & Medical can't deal with what is going on, where I and others are eating "sack meals" Officers & Employees are eating hot meals in ODR prepared by Offenders, the laundry is working so the Officers & Employees can get their clothing washed and pressed, the Unit states that we're on a "Medical Lock Down," when in fact we're not when other Offenders are allowed to work throughout the Unit, infected areas as well, and return to their living areas where other Offenders are housed, allowed out of cell for a very limited time, and thus come in contact with these "working" Offenders. Doesn't make any sense to keep pods locked

down when certain Offenders are allowed to go to work, assist the Officer's in their duties to feed the population, clean the Offender's living areas. I am asking that my Step-1 be reviewed, evaluated and acted upon. This "Medical Lock Down" referenced by the Warden's Response is a sham, it is being used to accommodate the convenience of the Unit not to serve hot meals, to lessen Offender traffic, and to deny us our privileges and Rights, Chapel, Law Library, etc.

Offender Signature: _____

Date: June 06 2020

Grievance Response: _____

Your Step 2 grievance has been investigated by this office. Records reflect you are post medical restriction. This should resolve your complaint. Be advised, Covid-19 protocols and guidelines are still in place. Unit Administration will continue to monitor the situation closely. Based on the information available at this time, no further action is warranted.

Signature Authority: _____

V. BARROW

JUN 13 2020

Date: _____

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Exhibit 1

040

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Unit Housing Assignment: 4 F 2-2-40BUnit where incident occurred: Mark W. Stiles Unit

OFFICE USE ONLY

Grievance # _____
 Date Received: JUN 02 2020
 Date Due: _____
 Grievance Code: _____
 Investigator ID #: _____
 Extension Date: _____
 Date Retd in Grievance: JUN 05 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Rovers for the building were asked for rank. When? May 29th 2020

What was their response? Rank I was told was unavailable for a informal resolution of this matter

What action was taken? None, the Rovers and/or Rank ignored my request for seeing Rank

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 15th 2020, 4F section was tested, in mass for the COVID 19 virus, the results were not
made available until the week of May 26th 2020, on May 29th 2020, Offender in 39 cell of 2 secti
was packed up, and placed on 4F Pod quanatine, then 4F 2 Pod was then put on quanatine. The
irony here is that on May 15th 39 cell was already "hot" with the COVID 19 virus, and 14 days
later, on May 29th when they came and quanatined him, and subsequently 2 section, the 14 day
isolation period had already expired. The virus had run it's course, 39 cell was not sick when
he was placed on 4f 3 pod, and no one else on F 2 showed any symptions of the virus, yet we are
once again placed on a 14 day isolation quanatine for something that was detected on May 15th
without anyone else being affected.

This Unit's Administration, as well as the Medical Department are totally clueless as to what
they are doing. How can a section be locked down for quanatine 14 days after the fact as in
this case?? The crisis that going on isn't the COVID 19 virus, but the fact that TDC cannot,
and will not follow their own Policies, Procedures, Protocols that are in place for just this
reason. The COVID 19 virus has a 14 day incubation period, and if symptions are not shown withi
that period of time, then the person's chances of the contracting of the virus is nil. That being
the case, the quanatining of F Pod 2 section is exercise in ignorance and if no one is showing
any signs or symptions of the virus we show be allowed to resume our daily routines and be al-
low to function as in the past.

We are presently being treated as if the COVID 19 virus is in affect on F 2 Pod, when in fact no
one is sick, is showing any signs of sickness, or has symptions of the virus. We on F 2 Pod are
being treated differently than other similar situated Offenders who live on the Stiles Unit who
are in fact working. going throughout the Unit to any section they wish to visit, without any
restrictions, these Offenders are not essential workers, but are used to ease the Officer's

loads, kitchen, laundry, SSI

Quarantine Policy & Protocol is, no Offender will be out and about until the COVID 19 virus has run its course, this Policy & Protocol are not being followed.

Action Requested to resolve your complaint

The restrictive lockdown needs to be lifted, it needs to be properly, and safely dealt with, -an presently that isn't the case.

Offender Signature:

[Handwritten Signature]

Date: June 1st 2020

Staff/Supervisor Response:

Your complaint has been reviewed. The Stiles unit is under medical lock down. The unit is following the guidelines set forth by the agency regarding COVID-19 procedures. All staff and offenders are receiving the necessary items to combat the spread of the coronavirus throughout the unit. Procedures are being implemented daily and privileges are being restored in stages within guidelines to combat the spread of the coronavirus. Remember to contact a building supervisor if there is an immediate need. No action is warranted.

Signature:

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

Date: 6-9-2020

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

- ☐ 1. Grievance is not grievable
- ☐ 2. Grievance is not grievable
- ☐ 3. Grievance is not grievable
- ☐ 4. Grievance is not grievable
- ☐ 5. Grievance is not grievable
- ☐ 6. Grievance is not grievable
- ☐ 7. Grievance is not grievable
- ☐ 8. Grievance is not grievable
- ☐ 9. Grievance is not grievable
- ☐ 10. Grievance is not grievable
- ☐ 11. Grievance is not grievable

UGI Printed Name/Signature:

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: **Exhibit 1**

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Grievance #:	
Offender #:	
Screening Criteria Used:	
Date Recd from Offender:	
Date Returned to Offender:	
2 nd Submission	UGI Initials: _____
Grievance #:	
Screening Criteria Used:	
Date Recd from Offender:	
Date Returned to Offender:	
2 nd Submission	UGI Initials: _____
Grievance #:	
Screening Criteria Used:	
Date Recd from Offender:	
Date Returned to Offender:	

042

Rec'd 06-

Appendix F

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

RESTRICTED AND CONFIDENTIAL

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY		STEP 1 X	
		STEP 2	
Unit: <u>ST</u> Investigator ID: <u>2534</u> Date Initiated: <u>06/02/20</u> Date Completed: <u>06/04/20</u> Date Due: <u>06/17/20</u>			
Offender Name: <u>Fain, Roger</u> TDCJ No: <u>700474</u> Grievance Number: <u>2020129759</u>			
Issue Code: 930/523	EMERGENCY YES () NO (X)	ADA () Disciplinary () Medical ()	Property () Religion () OPI Investigation ()
			Use of Force (UOF) () Harassment or Retaliation* () PREA ()

*This provision is a limitation of a part of the Grievance Procedure. It does not apply to claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate use of force, or other legal claims.

1. Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate use of force, or other legal claims, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: *(Include date, time and location):*
 Claims that 4bldg Fpod 2 section does not have any sick offenders and the 14 quarantine for coronavirus has expired. Claims that TDCJ is not following their own policy and protocols so restrictions should be lifted.

Requested Remedy:
 The restrictive lockdown needs to be lifted it needs to be properly and safely dealt with and presently that isn't the case.

The following is to be completed and signed by the Investigating Official. Attach statements supporting documentation, if applicable.

Summary of Fact Finding Activity:

see IOC from Warden Smith

Suggested Response to Offender:

Our complaint has been reviewed. The Stiles unit is under medical lock down. The unit is following the guidelines set forth by the agency regarding COVID-19 procedures. All staff and offenders are receiving the necessary items to combat the spread of the coronavirus throughout the unit. Procedures are being implemented daily and privileges are being restored in stages within guidelines to combat the spread of the coronavirus. Remember to contact a building supervisor if there is an immediate need. No action is warranted.

OUTCOME CODE: D **RESOLUTION CODE:** 201

Investigating official completes the section below:

Printed Name: S THOMASSignature: Title: INV IIIDate: 06/04/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP 93.11 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW CURRENT DATE: 06/11/20
INMTCICS/LSA5473 HOUSING/JOB ASSIGNMENT HISTORY AND TIME: 10:12:59
1A5H/UC15 INMATE NAME: FAIN, ROGER TDCNO: 00700474

HOUSING	DATE	UNIT	HOUSING COMMENT	INM/HSG	CUST	AUTH	JOB ASGN	DATE	JOB COMMENT	AUTH
	04/02/20	ST	4F22	40 B G2	GA	TC	08/30/19	UTILITY GEN SQ 1ST A	SID	JW
	TC/RDO							JW/MLG		
	08/30/19	ST	4D32	60 B G2	GA	JW	08/28/19	TRANSIENT CUSTODY OVERFL	UCC	
	JW/MLG							UCC/RDO		
	08/30/19	ST	UNASGN	G2	TR		08/21/19	UNASGN PENDING SCC	DOCKE	PAS
	08/28/19	ST	11TRA	35 B G2	TR	UCC	08/12/19	TRANSIENT PEND DIAG PROC	RRW	
	UCC/RDO							INTAKE		
	08/28/19	DU	UNASGN	G2	TR		08/07/19	TRANSIENT NON-ROUTINE	TR	SB
	08/12/19	DU	C10	03 B G2	TR	RRW	12/04/18	I/S MED SQ 01		KS
	08/12/19	NE	UNASGN	G2	TR		05/30/18	I/S MED SQ 03		RS
	08/07/19	NE	GTR	17 B G2	TR	SB	11/18/14	QUALITY ASSURANCE TECH 1		GM
	03/19/19	ML	UNASGN	G2	G2		02/24/14	GARMENT INSPECTOR 1ST		OC

MORE HOUSING/JOBS AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO _____
AND/OR SIDNO _____
F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-MENU

CSIUCR07/CSUC07
LSA5473 / 1A5H

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
UNIT CLASSIFICATION REVIEW (UCR)
CURRENT INSTITUTIONAL ADJUSTMENT RECORDS

06/11/20
10:12:36

OFFENDER NAME: FAIN, ROGER

TDCJ #: 00700474 SID #: 04497012

ACTIVE DETAINERS: 00 WARRANTS: 00 UNIT: ST

CMT: US

SEL CODE	ADJ DATE	ADJUSTMENT RECORD DETAILS
COVIX	06-03-2020	COVID-19 POST MEDICAL RESTRICTION
NADES	05-06-2020	REQUIRES DESIGNATED NATIVE AMERICAN UNIT
BWCHN	08-07-2019	BENCH WARRANT CASE HISTORY NOTIFICATION
BWCHN	02-13-2014	N/A
BWCHN	09-20-2013	BENCH WARRANT CASE HISTORY NOTIFICATION
EZ	02-16-2012	ESCAPE DESIGNATOR (OVER 10 YEARS AGO)
BWCHN	02-11-2011	N/A
NFSUA	02-05-2008	00708840 SMITH, DANNY RENE
NFSUA	12-11-2007	00708840 SMITH, DANNY RENE
NFSUA	07-11-1996	00727672 JEFFERSON, MELVIN RAY
DRUGS	04-13-1995	DRUG USE

ID STATUS: ACTIVE FOR TDCJ# 00700474

ENTER TRAN CODE	AND TDCJ#	OR SID#	PRINTER ID 6759
F1=HELP F4=ALIAS	F6=CODE LIST	F7=UP F9=PRINT	F10=DETAINERS F12=MENU
F3=PREV		F8=DOWN	F11=WARRANTS

7 screen

X medic Restrict n. proximity P.S.
Coul (D) Treated Patient

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1

STEP 2 X

Unit: ST Investigator ID: I-1364 Date Initiated: 06/11/20 Date Completed: 06/11/20 Date Due: 06/23/20Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020129759

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
<u>930523</u>	YES ()	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedures, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

The offender claims 4 building, F pod, 2 section does not have any sick offenders and the 14 day quarantine for coronavirus has expired. The offender claims that TDCJ is not following their own policy and protocols.

Requested Remedy:

The offender wants the restrictive lockdown to be lifted.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:


1. Step 1
2. UCR 02 – Offender housed in 4 Building F Pod, 2 section.
3. UCR 07 – Covid 06/03/20, Covid 19 Post Medical Restriction – The offender was on medical restriction due to an offender in proximity testing positive. The 14 days is over and the offenders are off restriction- Per ST Unit CUC.
4. IOC ST per Warden K. Smith – Covid-19 protocols listed.

Suggested Response to Offender:

Your Step 2 grievance has been investigated by this office. Records reflect you are post medical restriction. This should resolve your complaint. Be advised, Covid-19 protocols and guidelines are still in place. Unit Administration will continue to monitor the situation closely. Based on the information available at this time, no further action is warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: L. SanfordSignature: Title: Administrative Assistant VDate: 06/11/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



Texas Department of Criminal Justice
STEP 2
OFFENDER
GRIEVANCE FORM

Offender Name: Roger Eain TDCJ # 00700474
 Unit: Stiles Housing Assignment: 4F 2 - 40B
 Unit where incident occurred: ~~XXXX~~ Stiles

OFFICE USE ONLY

Grievance #: 2020112559
 UGI Recd Date: 06-24-20
 HQ Recd Date: JUN 27 2020
 Date Due: 8-3
 Grievance Code: 500
 Investigator ID#: 27725
 Extension Date: 9-12

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

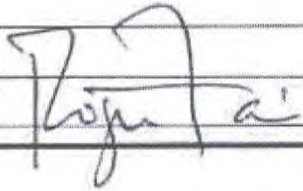
Once again the Warden's Response did not adequately answer the issues set forth in the Step-1 Grievance, in fact all the Response did was to rubber stamp the matter, validate what the Kitchen Manager/Captain was doing even though it was in violation of the Food Service Policy concerning DFH Sack Meals.

It is obvious that no Administrative investigation took place. The Grievance Investigators write out the Warden's Response, and the Warden signs off on the matter, thus denying whatever Administrative remedies I might be so entitled to.

It is hard for me to understand what the Unit's Grievance procedure has to lie on each and every Grievance when they deny an Offender a fair and impartial hearing of the Grievance filed. As stated in this Step-1 Response, "You are afforded a DFH meal daily in accordance with the food service policy." This is a blatant misstatement because the Kitchen does not follow the DFH as stated in the Food Service Policy, and this can be verified just by looking at what is being served in the lockdown johnnies, but again, no Administrative investigation was done, no other than the Grievance investigator calling up the kitchen, asking them if they are or aren't doing something, and that is the extent of the investigation. I guess the slogan on the back of the Agencies issued hats states it all, "We Take Care Of Our Own." Which means we take care of the Employees and the Offender population suffers for this policy of taking care of our own.

Once again I am stating that the kitchen is deliberately ^{denying} ~~deny~~ me my DFH because it is inconvenient to follow the Food Service Policy Meal, thus the kitchen Manager/Captain is indifferent to the Medical Department's order of a DFH, and for my health and well being.

Offender Signature:



Date:

June 23rd 2020

Grievance Response:

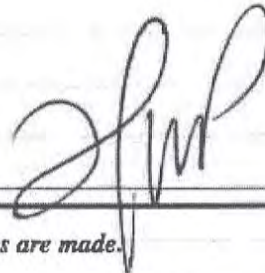
An investigation has been conducted into your complaint. There was no conclusive evidence found to substantiate your claims that food is not being served in accordance with policy. No further action warranted by this office.

Offender Signature:



Grievance Response:

Signature Authority:



Date:

OCT 02 2020

Returned because: *Resubmit this form when corrections are made.

Offender Signature:

☒ 1. Grievable time period has expired.☐ 2. Illegible/Incomprehensible.*☐ 3. Originals not submitted.*☐ 4. Inappropriate/Excessive attachments.*☐ 5. Malicious use of vulgar, indecent, or physically threatening language.☐ 6. Inappropriate.*

Signature Authority:

Returned because: *Resubmit this form when corrections are made.

CGO Staff Signature:

☒ 1. Grievable time period has expired.☐ 2. Illegible/Incomprehensible.☐ 3. Originals not submitted.*☐ 4. Inappropriate/Excessive attachments.☐ 5. Malicious use of vulgar, indecent, or physically threatening language.☐ 6. Inappropriate.*

I-128 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Exhibit 1

049

Appendix G



Texas Department of Criminal Justice

STEP 1

OFFENDER GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4F 2 - 40BUnit where incident occurred: Stiles

OFFICE USE ONLY

Grievance #: 2020112559
~~APR 29 2020~~ YR
 Date Received: APR 29 2020
 Date Due: 06-08-2020
 Grievance Code: 500
 Investigator ID #: I 27581781
 Extension Date: 07-18-2020
 Date Read to Offender: JUN 22 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Food Services Captain / Manager I-60's When? Most recent 4.21.20What was their response? Ignored, thus denied any attempt at a informal resolutionWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate
 On April 14th 2020, at approximately 8:00PM we were put on quarantine lock down.

On April 15th 2020, I received my first or several Diet For Health, (DFH) johnnie, this DFH sack meal was not what was prescribed by the Correctional Managed Health Care Therapeutic Dietary Policy & Procedures Manual.

My numerous I-60's to Food Service Manager/Captain concerned if the DFH Menu's, both for daily and lock downs, were the same as the FY 2018 - 2019 as stated in the Policy & Procedures Manual. I received no reply from any of my I-60's.

DFH aren't allow per Policy regular jelly, we are to receive Dietary jelly, with 2 tablespoons of peanut butter, this isn't happening. To date I've received out of a total of 42 served sack meals 33 peanut butter and jelly sandwiches; out of these 42 sack meals, 13 were not DFH.

CMHC Therapeutic Dietary Policy & Procedure states that I am to receive, daily; Mustard twice a day, haven't received it once; Powdered Milk, 8 oz. twice a day, I received it only 9 meals; I am to receive Raisins, or Prunes, 2 oz. 3 times per day, I have received 19 out of 42; I have received one odd meal that wasn't covered in the Dietary Policy, and that was on April 26th this is lunch, a hamburger patty on 2 pancakes, but I did receive a PB & J on bread at the same meal. Furthermore, the Policy & Procedure s Manual also states that I am to receive either Tea or punch to drink, haven't seen either to DFH or for others on the pod, I have noticed that the outside dorms enjoy Tea or Punch delivered to them.

I am not sure if it is the Food Service Captain/Manager who is at fault for the incomplete DFH sack meals or those of her workers not wanting to do their jobs, at least for them they are receiving hot meals for working in the kitchen.

Action Requested to resolve your Complaint.

Would like to see the DFH menu followed, and delivered as is posted in the CMHC Therapeutic Policy & Procedures Manual, if this isn't the Policy, I'd like to receive it to read what is

Offender Signature: Regina

Date: April 28th 2020; PM drop off:

Grievance Response:

Your claims noted. Food service department is aware of your Diet for Health diet. You are afforded a DFH meal daily in accordance with the food service policy. No evidence was found to sustain your claims of being denied this daily meal. No further action is warranted by this office.

Signature Authority: Kewin Smith

Date: 6-20-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Informable time period has expired
- ☐ 2. Submission in excess of 1 every 7 days *
- ☐ 3. Originals not submitted *
- ☐ 4. Inappropriate/Excessive attachments *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language *
- ☐ 8. The issue presented is not grievable
- ☐ 9. Redundant. Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

051

REC'D 06-22-20

Appendix F

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: 2758 1781 Date Initiated: 04/29/20 Date Completed: JUN 16 2020 Date Due: 05/08/20

Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020112559

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
500	YES ()	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

(Harmless or Retaliation of Part of the Grievance Procedures. Issues are handled as other legal matters.)

Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, sexual harassment, excessive or improper use of force, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Claims he has not received a proper diet for health meal during the lockdown and he has sent several I-80's to food service manager with his concerns. Please explain.

Requested Remedy:

Would like to see DFH menu followed

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

FSM IV Gilder supervisor comments
Extension Applied


Suggested Response to Offender:

Your claims noted. Food service department is aware of your Diet for Health diet. You are afforded a DFH meal daily in accordance with the food service policy. No evidence was found to sustain your claims of being denied this daily meal. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: Reynolds, Y.

Signature: 

Title: UGI II

Date: JUN 16 2020

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03 and 41-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

053

GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ST Staff Name: Food Service Grievance #: 2020112559 Date: 04/29/20
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4F-40B 06/08 YR

In accordance with BP 65.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation, I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- | | |
|--|---|
| <input type="checkbox"/> Participant(s) Statement | <input type="checkbox"/> Other |
| <input type="checkbox"/> Witness(es) Statement (signed) | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms |
| <input type="checkbox"/> Shift Roster | <input type="checkbox"/> Property Logs |
| <input type="checkbox"/> Ingress/Egress Log | |
| <input type="checkbox"/> Property Confiscation Form | |

ALLEGATIONS:

Claims he has not received a proper diet for health meal during the lockdown and he has sent several I-60's to food service manager with his concerns. Please explain.

EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

Offender Fain # 700474 is listed on the DPH medical diet. He is served a DPH sack meal according to policy. The DPH sack meal is served according to 410 DPH menu.

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

Exhibit 1

054

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020112559	Fain, Roger	700474	ST



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Y. Reynolds UGI II

Name and Title

06/01/2020

Date

Original - Send to the Offender

Copy - Attach to the Grievance

Step 1	<input type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input checked="" type="checkbox"/>	2020112559	FAIN, ROGER	00700474	ST

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice
Offender Grievance Office

NOTICE OF EXTENSION

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.

Step 2 Grievance: (check the applicable box)

- ☒ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

B. Ferguson

Name

8/4/2020

Date

Original – Send front page only to the Offender.
Copy – Attach front and back to the Grievance.

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1

STEP 2 X

Unit: CGO Investigator ID: I-2725 Date Initiated: 10/01/20 Date Completed: 10/01/20 Date Due: 09/12/20Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2020112559

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
	YES	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
500	NO	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Offender claims on 4/15/20 he received a DFH johnnie; however, it was not what was prescribed by the Correctional Managed Health Care Therapeutic Dietary Policy and Procedures Manual. He states he is not being provided diet jelly and out of 42 sack meals, 13 have not been DFH.

Requested Remedy:

To have the DFH menu followed.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

1. Reviewed Step 1 and Step 2.
2. Reviewed statement from M. Gilder, FSM IV, which states, "Offender Fain is listed on the DFH medical diet. He is served a DFH sack meal according to policy. The DFH sack meal is served according to the DFH menu."

Suggested Response to Offender:

An investigation has been conducted into your complaint. There was no conclusive evidence found to substantiate your claims that food is not being served in accordance with policy. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: H. BeltranSignature: H. BeltranTitle: Admin. Assistant IVDate: 10/01/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



Texas Department of Criminal Justice
STEP 2
OFFENDER
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4 P 2 - 403
 Unit where incident occurred: 4 Building - Stiles Unit

OFFICE USE ONLY

Grievance #: 2020090028
 UGI Recd Date: 4-27-2020
 HQ Recd Date: APR 29 2020
 Date Due: 6-4
 Grievance Code: 200
 Investigator ID#: 1312
 Extension Date: 7-16

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The issues in the Grievance were not addressed, not due to the Senior Warden's response due to the fact that Senior Warden Williams did not have all of the facts necessary to make a proper evaluation, and respond to that evaluation. The fault lays with the Grievance Investigator.

If the Senior Warden had known what time of night, what the circumstances were for the 03/17/20 move, the Warden's Response would have been different. But since Senior Warden Williams only signs off on the Grievance without reading it, and making an independant assessment of the facts he is just rubber stamping what the Grievance Investigator/Coordinator is stating on the response portion of the Grievance.

If the facts had been available to the Senior Warden the outcome would be different and in my favor, not just merely stating that "...a housing change was provided on 03/17/20." As if in that response the matter was settled.

A second Grievance was filed on 03/17/20 another Grievance was filed with the Grievance Office, this Grievance stated that Offender Eddie Williams had become violent, which I stated was my concern on the 03/12/20 Grievance, which was ignored until I was attacked in the middle of the night by Eddie Williams. That he had heated my hot pot to the point of melting, and then when I attempted to unplug it, he took it, and started swinging it at me, burning me with the melted plastic, when I got him under control, called out to some on the run to get a guard, the guard came and I was questioned as to what happened, I stated that he had attacked me and destroyed my hot pot in the process.

My 03/17/20 Grievance stated these facts, and I asked for my hot pot to be replaced, and

I was called up to the Grievance Office, offered a replacement for my hot pot, and to sign a statement withdrawing the 03/17/20 Grievance. The fact of the matter is, my 03/12/20 Grievance which was marked "Emergency" several places was ignored, it was only responded to after I was attacked in the middle of the night by an Offender who has had a history of being moved due to problems with his cellies. This matter should have been handled differently, but was ignored, as usual.

Offender Signature:

Rogertain #00700474

Date: April 24th 2020

Grievance Response:

An investigation was conducted into your allegations. Your Step 1 response was appropriate. Be advised, if at any time you feel you are being subjected to a clear and present danger from another offender, it is imperative that you contact a TDCJ ranking officer for immediate assistance. No further action warranted.

Signature Authority:

me

M. LEWANDOWSKI

Date:

JUN 28 2020

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Misleading use of vulgar, obscene, or physically threatening language.
- ☐ 6. Inappropriate.

CGO Staff Signature:

OFFICE USE ONLY

Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
2 nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
3 rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	

Exhibit 1

059



Texas Department of Criminal Justice

EMERGENCY STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2020090028Date Received: MAR 13 2020Date Due: 04-22-2020Grievance Code: 200Investigator ID #: I 2758

Extension Date: _____

Date Retd to Offender: APR 22 2020Offender Name: ROGER FAIN TDCJ # 200474Unit: STILES Housing Assignment: 4D 3-60BUnit where incident occurred: STILES 4 BUILDING

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? BUILDING SGT.When? 9:45PM 03/12/20What was their response? TOLD ME TO CALM DOWN, WALKED AWAYWhat action was taken? NOTHING. SAID THEY WERE GOING TO MOVE HIM 10 RE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

EDDIE WILLIAMS WAS MOVED FROM 4D 3 56 TO 4D 3 60B, THE MOVE WAS THE RESULT OF THE OFFENDER IN 56B NOT BEING ABLE TO LIVE WITH HIM. WHY BECAUSE HE REFUSED TO BATH, PULLED TRASH FROM THE TRASH CAN, BROUGHT IT INTO THE CELL, AS WELL AS SPREADING IT AROUND THE DAY ROOM. FURTHERMORE EDDIE WILLIAMS EATS FOOD FROM THE TRASH CAN, FROM THE FOOD DAY ROOM FLOOR. HE IS A MENTAL CASE, TALKS TO HIMSELF, AT ALL HOURS OF THE DAY AND NIGHT, SINGS DANCES AND PICKS UP OTHERS PROPERTY. TAKES CUPS AND SPOONS FROM THE CATER HALL, PLACES THEM WITH TRASH AROUND THE ENTIRE POD.

EDDIE WILLIAMS IS A HEALTH PROBLEM TO HIMSELF AND TO THOSE AROUND HIM. THIS MAN SHOULD HAVE BEEN PLACED IN A MENT NARD, NOT IN GP. HIS MOVE FROM D 3 56 TO D 3 60B WAS BASED SOLELY ON THE FACT THAT I HAD A BUNK AVAILABLE, (THERE ARE SEVERAL OTHER BUNKS ALSO OPEN) AND HE IS BLACK AND I'M WHITE, WHITE WITHOUT ANY TYPE OF RACIAL RESTRICTIONS.

I DO NOT BELIEVE MYSELF SAFE LIVING IN THE SAME CELL AS EDDIE WILLIAMS. I BELIEVE HE COULD BECOME VIOLENT DURING THE NIGHTS AND ATTACK ME WITHOUT ANY SANE REASON.

I'VE GIVEN PROPER NOTICE TO THE ADMINISTRATION THAT A PROBLEM EXISTS, AND NEEDS TO BE DEALT WITH. FOR ANY FURTHER PROBLEMS ARISE, (SHOWEN WAS ALLOWED AT 2:00 PM HAD EDDIE WILLIAMS AGREEING TO A SHOWEN, GUARDS REFUSED TO OPEN THE CELL TO DO SO; OFFERED HIM CLEAN CLOTHES, BUT HE COULD SHOWEN; TOLD ME AT 10:15 PM, AFTER RETURNING FROM THE BUILDING THEY WERE GOING TO MOVE HIM TO 10 BUILDING, DIDN'T HAPPEN; OFFICERS ON THIS UNIT IGNORE OFFENDERS PROBLEMS BECAUSE THEY DON'T CARE, AND DON'T WANT TO RESOLVE THE ISSUE

Action Requested to resolve your Complaint:

THIS MATTER NEEDS IMMEDIATE ATTENTION BY THE ADMINISTRATION AND THIS OFFENDER ON ME MOVED. (DROPPED IN BOX AT ABOUT 4:00 AM)

Offender Signature:

Dogai Fair 200474

Date:

03/12/20 10:28 AM

Grievance Response:

An inquiry into your grievance was conducted and the investigation revealed that a housing change was provided on 03/17/2020. No further action warranted.

Bryan Williams
Warden

Signature Authority:

B.S.W. Date: 4-24-2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-127) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # _____
- ☐ 10. Illegible-Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

Exhibit 1

OFFICE USE ONLY

Initial Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 2nd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____

REC'D 04-22-20

061

Appendix F

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

RESTRICTED AND CONFIDENTIAL

Step 1	<input type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input checked="" type="checkbox"/>	2020090028	FAIN, ROGER	700474	ST

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice
Offender Grievance Office

NOTICE OF EXTENSION

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your grievance.

Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

V. Barrow
Name

05/01/20
Date

Original – Send front page only to the Offender.
Copy – Attach front and back to the Grievance.

CSIUCR15/CSUC15 TDC UNIT CLASSIFICATION REVIEW
 INMTCICS/JWA5446 HOUSING/JOB ASSIGNMENT HISTORY
 1FSD/UC15 INMATE NAME: FAIN, ROGER

CURRENT DATE: 06/26/20
 AND TIME: 10:58:03
 TDCNO: 00700474

HOUSING DATE	UNIT	--HOUSING-- --ASGNMNT--	INM/HSG CUST	AUTH	JOB ASGN DATE	-----JOB----- -----ASSIGNMENT-----	AUTH
04/02/20	ST	4F22	40 B G2	GA TC	08/30/19	UTILITY GEN SQ 1ST A SID	JW
TC/RDO					JW/MLG		
08/30/19	ST	4D32	60 B G2	GA JW	08/28/19	TRANSIENT CUSTODY OVERFL	UCC
JW/MLG					UCC/RDO		
08/30/19	ST	UNASGN	G2	TR	08/21/19	UNASGN PENDING SCC DOCKE	PAS
08/28/19	ST	11TRA	35 B G2	TR UCC	08/12/19	TRANSIENT PEND DIAG PROC	RRW
UCC/RDO					INTAKE		
08/28/19	DU	UNASGN	G2	TR	08/07/19	TRANSIENT NON-ROUTINE TR	SB
08/12/19	DU	C10	03 B G2	TR RRW	12/04/18	I/S MED SQ 01	KS
08/12/19	NE	UNASGN	G2	TR	05/30/18	I/S MED SQ 03	RS
08/07/19	NE	GTR	17 B G2	TR SB	11/18/14	QUALITY ASSURANCE TECH 1	GM
03/19/19	ML	UNASGN	G2	G2	02/24/14	GARMENT INSPECTOR 1ST	OC

MORE HOUSING/JOB'S AVAILABLE

NEXT TRANS CODE: 02 AND/OR TDCNO _____ AND/OR OPTION I
 AND/OR SIDNO _____

F1-HELP F3-MAIN MENU F7/F8-UP/DOWN F10-MAX UP F12-MENU

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY		STEP 1	
		STEP 2 X	
Unit: <u>CGO</u>	Investigator ID: <u>I1312</u>	Date Initiated: <u>6/26/20</u>	Date Completed: <u>6/26/20</u> Date Due: <u>7/16/20</u>
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>700474</u>	Grievance Number: <u>2020090028</u>
Issue Code: 200	EMERGENCY YES () NO ()	ADA () Disciplinary () Medical ()	Property () Religion () OPI Investigation () Use of Force (UOF) () Harassment or Retaliation* () PREA ()
<i>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</i>			
<p><i>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</i></p> <p>Summary of Issue: (Include date, time and location): _____</p> <p>Offender states that a housing move should not have been necessary. The offender is mental and a harm to himself and others.</p>			
<p>Requested Remedy: Offender states that he should not have had to deal with the violence.</p>			
<p>The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.</p> <p>Summary of Fact Finding Activity:</p> <ol style="list-style-type: none"> 1. Step 1 and 2 reviewed. 2. No OPI on GR00 or UCR 3. Offender Williams 499077 was moved to 7 building on 3/17/20, offender is G2 and records do not note mental health. 			
<p>Suggested Response to Offender:</p> <p>An investigation was conducted into your allegations. Your Step 1 response was appropriate. Be advised, if at any time you feel you are being subjected to a clear and present danger from another offender, it is imperative that you contact a TDCJ ranking officer for immediate assistance. No further action warranted.</p>			
<p>OUTCOME CODE: <u>D</u> RESOLUTION CODE: <u>2.01</u></p> <p>Investigating official completes the section below:</p>			
Printed Name: <u>J. Warren</u>		Signature: <u>Julie Warren</u>	
Title: <u>CGO Investigator</u>		Date: <u>6/26/20</u>	

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4F 22 - 40B
 Unit where incident occurred: Mark W. Stiles

OFFICE USE ONLY

Grievance #: 2020086915
 UGI Recd Date: 8-24-2020
 HQ Recd Date: AUG 26 2020
 Date Due: 10-3
 Grievance Code: 523
 Investigator ID#: 12704
 Extension Date: 11/12

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The issues presented in my Step-I, Grievance #2020086915 were not addressed, the gist of the grievance was the fact that when something happened on another section of the building, on another pod, that had absolutely nothing to do with any other section or pod, the Administration decided to punish the entire building because of the actions of two other offenders who were subsequently removed from the section/pod/building and put into 11 building, in that, the issue should have been resolved. Instead, approximately 430 offenders were denied hot meals, lay-ins, and other services that were going on that day.

Warden Smith's reply did not answer the grievance as much as it gave lip service to a party line of the Unit and possibly of the Agency, that the safety & integrity of the Staff & Offenders was at the heart of the matter.

Furthermore, Grievance #2020086915 was written on March 4th 2020, dropped into the Grievance box on March 5th 2020. In the upper right hand section of the Grievance, under "Office Use Only" it shows where the Grievance was received on March 6th 2020, Grievance Code 523, Investigator I 2758 first received it, then I 2133 dealt with it, (Assuming that 2758 is S. Thomas, and 2133 is Y. Reynolds, either/or). Extension Date May 25th 2020, (A notice for an extension was issued and sent to me on April 10th 2020, by Ms. Yolanda S. Reynolds, UGI-II, I received the extension on April 13th 2020, this extension was for 40 Days), Date Returned To Offender August 19th 2020.

From the time of the filing, the actual receipt of the grievance in the Grievance Office, to the Date that Warden Kevin Smith signed off on it. August 18th 2020 amounts to 165 days for the Grievance Investigators/Grievance Office to answer this particular Grievance, and the amount of

violates TDCJ-CID Policy, Rules & Procedures that govern the Grievance process. The Grievance office could have asked for a second additional extension, it didn't because their process of dealing with Offender Grievances is contempt, indifference, and a "Don't Care Attitude" and this is apparent throughout the entire Grievance Office & Processing of Offender Grievances. This matter should be investigated, and the Grievance Process Audited.

Offender Signature: Roger Tamm 200474Date: August 21st 2020

Grievance Response:

An investigation has been conducted into your complaint. Records indicate that there is no record of an incident in 4 building on said date. No further action warranted.

Offender Signature:

Date:

Grievance Response:

Signature Authority:

V. BARROW

Date:

NOV 13 2020

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

Signature Authority:

CGO Staff Signature:

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Exhibit 1

067



Texas Department of Criminal Justice

STEP 1

OFFENDER
GRIEVANCE FORM

4F-40

Offender Name: Roger Fain

TDCJ # 00700474

Unit: Mark W. Stiles

Housing Assignment: 4D-03-60B

Unit where incident occurred: 4 Building, Stiles Unit

OFFICE USE ONLY

Grievance #: 2020086915

Date Received: MAR 06 2020

Date Due: 04-15-2020

Grievance Code: 523

Investigator ID #: I2758 I2133

Extension Date: 05-25-2020

Date Retd to Offender: AUG 19 2020

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Asked for Rank, was told they were unavailable When? 03/04/20

What was their response? There was none, floor rover stated "She didn't have a clue as to why...?"

What action was taken? Racked up in our cells from 12:45PM until 8:00am day room

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. On March 4th 2020, at approximately 12:45pm the rover on D Section of 4 Building came in and told us to rack up, when asked what for, she stated that she didn't have a clue, that she was informed to rack up her section. When asked to speak to rank, she informed us that rank was not available so we were racked up. Lays were not honored, and at pm chow we received 2 chicken pattys on dry bread.

I understand that being racked up is for a disciplinary and/or security reason, but yesterday's racking up of the entire 4 Building, and no other buildings or dorms were affected did not constitute a rack up for disciplinary and/or security reasons, in fact no reason was ever given for racking up the entire building.

Rumor had it that on 4 Building F 2 Section someone gone into a fight/stabbing, which in that case, that section alone should have been racked up, yet this Administration decide to punish not just the section but the entire building. When in fact at the time of the rack up, neither of the individuals in the fight/stabbing were even present to be locked down with the entire section and building.

It would seem that this Administration is promoting violation towards others by punishing everyone for the actions of a few, thus if we're to be punished for the actions of others, then it would make sense to punish those responsible for the upcoming punishment "prior" to their leaving the section. By extracting the punishment on those responsible for causing the punishment for the entire section to be locked down, fed johnnies, and treated as if they were the problem this extrating the punishment might, in the future prevent others from acting out in fear of what might befall them from others around them, in other words, offenders that offend and break the rules, peace, and quiet of those around them, those around them then discipline the offender for causing them problems. Prison is not a safe enviroment, never will be, no matter what Safe Prisor

Case 5:20-cv-01149-DAF Document 94-3 Filed 03/31/22 Page 70 of 76

and PREA wish to protect to the outside world by punishing everyone. The actions of a few is wrong, but TDCJ-CID's policy is to punish those that do what is correct, and do their time, and reward, and promote those that are the problems. It is easier to blame everyone, instead of taking actions against those that deserve it.

DROPPED IN GRIEVANCE
Box 03/05/20 12:00PM

Action Requested to resolve your Complaint.

To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated, and only punish those that deserve it, instead of punishing everyone.

Offender Signature:

Roger Fair 7004N

Date: March 5th 2020

Grievance Response:

Your grievance has been reviewed and investigated. To preserve the integrity of the investigation and safety of staff and offenders the building was racked up. Based on available facts, no further action warranted.

Kevin Fair

Signature Authority:

[Signature]

Date: 8-18-20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (1-138) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

Exhibit 1

OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

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Appendix F

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY		STEP 1 X	
		STEP 2	
Unit: <u>ST</u>	Investigator ID: <u>2133</u>	Date Initiated: <u>03/06/20</u>	Date Completed: <u>08/14/20</u> Date Due: <u>05/25/20</u>
Offender Name: <u>Fain, Roger</u> ✓		TDCJ No: <u>700474</u>	Grievance Number: <u>2020086915</u>
Issue Code: <u>523</u>	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA <input type="checkbox"/> Disciplinary <input type="checkbox"/> Medical <input type="checkbox"/>	Property <input type="checkbox"/> Religion <input type="checkbox"/> OPI Investigation <input type="checkbox"/>
			Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation* <input type="checkbox"/> PREA <input type="checkbox"/>

*Harassment or Retaliation is based on the Grievance Procedures process to determine if the offender is being retaliated against.

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, excessive or inappropriate use of force, the investigation must be conducted in the Office of Inspector General (OIG) and the OPI Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Offender alleges on 03/04/2020 that 4 building was racked up for no reason other than an incident (stabbing) in another pod. Claims no reason to rack up the entire building. Claims everyone is being punished for the actions of a few. Claim they were fed johnnies and treated like they were the problem.

Requested Remedy:

To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated and only punish those that deserve it, instead of punishing everyone.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

OGOM-M

email requesting statement x2

Major Neal had no knowledge of this incident at the time I was assigned to Restrictive Housing

Suggested Response to Offender:

Your grievance has been reviewed and investigated. To preserve the integrity of the investigation and safety of staff and offenders the building was racked up. Based on available facts, no further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: J. LombardoSignature: [Signature]Title: AA IVDate: 08/14/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP 03.00 and AD-0362. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

GRIEVANCE INVESTIGATION WORKSHEET

OVERDUE since 05/25/2020

5/25

Unit: TL Staff Name: Major Neal Grievance #: 2020086915 Date: 08/01/2020
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 4 D 3

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation, I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- | | |
|--|---|
| <input type="checkbox"/> Participant(s) Statement | |
| <input type="checkbox"/> Witness(es) Statement (signed) | |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Other |
| <input type="checkbox"/> Shift Roster | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Ingress/Egress Log | <input type="checkbox"/> Property Inventory Forms |
| <input type="checkbox"/> Property Confiscation Form | <input type="checkbox"/> Property Logs |

ALLEGATIONS:

Offender alleges on 03/04/2020 that 4 building was racked up for no reason other than an incident (stabbing) in another pod. Claims no reason to rack up the entire building. Claims everyone is being punished for the actions of a few. Claim they were fed johnnies and treated like they were the problem.

EMPLOYEE STATEMENT:

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

I have no knowledge of this incident at the time I was assigned to Restrictive Housing

PRINTED NAME

SIGNATURE

DATE

RANK/TITLE

SHIFT/DEPARTMENT

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020085915	Fain, Roger	700474	ST



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Y Reynolds UGI II

Name and Title

04/10/2020

Date

Original - Send to the Offender

Copy - Attach to the Grievance

Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2020086915	Fain, Roger	700474	CY

(Check which box applies (Step 1 or Step 2))



Texas Department of Criminal Justice
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- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 35 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

M. Lolley, Adm. Asst. IV.
Name and Title

September 22, 2020
Date

Original – Send to the Offender
Copy – Attach to the Grievance

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1

STEP 2 X

Unit: CGO Investigator ID: I-2704 Date Initiated: 9/22/20 Date Completed: 11/12/20 Date Due: 11/12/20
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020086915

Issue Code:	EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()
523	YES ()	Disciplinary	()	Religion	()	Harassment or Retaliation*	()
	NO (X)	Medical	()	OPI Investigation	()	PREA	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

On 3/4/20, offender claims 4 building was racked up for no reason other than an incident (stabbing) in another pod. Offender claims no reason to rack up the entire building. Offender claims everyone is being punished for the actions of a few. Offender claims they were fed Johnnies and treated like they were the problem.

Requested Remedy:

To have the process of racking up an entire building due to an isolated incident investigated and re-evaluated and only punish those that deserve it instead of punishing everyone.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact-Finding Activity:

1. Step 1
2. 8/7/20, statement from R. Neal, Major, notes that I have no knowledge of this incident at the time. I was assigned to restrictive housing.

Suggested Response to Offender:

An investigation has been conducted into your complaint. Records indicate that there is no record of an incident in 4 building on said date. No further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. Lolley

Signature: M. Lolley

Title: Central Grievance Analyst

Date: 11/12/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.